IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5659 of 1998

AND

SPECIAL CIVIL APPLICATION No 5660 of 1998

For Approval and Signature:

HON'BLE MR.JUSTICE K.S.JHAVERI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

MEHSANA DISTRICT CENTRAL COOPERATIVE BANK LTD.,
Versus
BIPINCHANDRA MANSUKHAL

Appearance:
1. Special Civil Application No. 5659 of 1998
MR MK VAKHARIA for Petitioner No. 1
MR UNMESH D SHUKLA for Respondent No. 1
RULE SERVED for Respondent No. 2
RULE UNSERVED for Respondent No. 3

CORAM : HON'BLE MR.JUSTICE K.S.JHAVERI

Date of decision: 02/12/2004
ORAL JUDGEMENT

1. The petitioner Bank has preferred this petition in order to quash and set aside the impugned order dated 31/05/1998, at Annexure-A to the petition, passed by the Gujarat Cooperative Tribunal, Gujarat State, Ahmedabad,

and also the order dated 18/07/1994, at Annexure-B to the petition, passed by the Board of Nominees Court, Mehsana.

2. The short facts of the case are that the petitioner Bank sanctioned a pledge limit of Rs.5 Lacs for business purposes to respondent no.2, as respondent no.2 was one of its members. On 14/04/1982, an agreement was entered into between them, whereby respondent no.2 had pledged with the bank 278 cotton bales in respect of the pledge amount of Rs.5 Lacs. As respondent no.2 did not have any facility to press the cotton bales, it approached the petitioner Bank to permit itself to send 129 cotton bales for pressing. Accordingly, respondent no.3 herein, on behalf of respondent no.2, sold the said cotton bales on condition that the amount realized from the selling of the said cotton bales would be deposited with the petitioner Bank.

3. Pursuant to the said undertaking, respondent no.3 herein failed to deposit the full amount of the sale proceeds with the petitioner Bank. Feeling aggrieved by the said action, the petitioner Bank preferred Arbitration Suit No.1809 of 1990 before the Board of Nominees Court, Mehsana. By order dated 18/07/1994, at Annexure-B to the petition, the Board of Nominees Court, Mehsana, rejected the suit filed by the petitioner Bank. The petitioner Bank preferred appeals before the Gujarat Co-operative Tribunal, Ahmedabad, challenging the order of the Board of Nominees Court. By order dated 31/05/1994, at Annexure-A to the petition, the appeals preferred by the petitioner Bank were dismissed. Hence, this petition.

4. I have heard learned counsel for the parties and perused the relevant documents on record. The Board of Nominees Court, after hearing the advocates for the parties, passed a decree by which an amount of Rs.77,786/- was ordered to be recovered from defendant no.2 and the order below exh.6 was confirmed. The Tribunal has rightly upheld the order passed by the Board of Nominees Court, Mehsana, as is clear from the reasonings given by it in para 12 of its order. I find no infirmity in the orders passed by the Board of Nominees Court and the Tribunal, since the same are just and proper and do not require any interference from this Court in this petition. Hence, the petitions are required to be dismissed.

5. For the foregoing reasons, the petitions are dismissed. Notice is discharged. Interim relief, if any, stands vacated.

(K. S. Jhaveri, J.)

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